

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 17-4300-JLS (KS) Date: October 30, 2017

Title *Jesse C. Galvan v. Raymond Madden*

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Roxanne Horan-Walker
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On June 9, 2017, Petitioner, a California state prisoner proceeding *pro se*, filed a totally unexhausted Petition for Writ of Habeas Corpus (the “Petition”) (Dkt. No. 1) and a Motion for a Stay and Abeyance (the “Stay Motion”) (Dkt. No. 3). On June 14, 2017, the Court granted Petitioner’s Stay Motion pursuant to *Rhines v. Weber*, 544 U.S. 269, 278 (2005) and ordered Petitioner to, within 60 days, file a habeas petition in the California Supreme Court and a Status Report in this Court. (Dkt. No. 5.)

Petitioner did not do as instructed. Instead, on August 11, 2017, Petitioner filed a request for an extension of time to file a state habeas petition in the California Supreme Court because a state habeas petition he filed in the Los Angeles County Superior Court was still pending and not yet fully briefed. (Dkt. No. 7.) Petitioner also indicated that he intended to appeal any denial of this state petition to the California Court of Appeal before proceeding to the California Supreme Court. (*Id.* at 3.)

On August 14, 2017, noting Petitioner’s failure to comply with the Court’s last order and informing Petitioner that the California Supreme Court has original jurisdiction over state habeas petitions, the Court granted Petitioner an extension of time – 60 days – to file a habeas petition in the California Supreme Court and a Status Report in this Court. (Dkt. No. 8.) Accordingly, Petitioner’s status report was due no later than October 13, 2017. More than two weeks have now passed since Petitioner’s deadline for complying with the Court’s August 14, 2017 Order, and Petitioner has neither filed a status report nor otherwise communicated with the Court about his case. Accordingly, Petitioner is **ORDERED TO SHOW CAUSE** no later than November

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20, 2017, why this case should not be dismissed for his failure to prosecute and comply with the Court's prior Order.

To discharge this Order and proceed with this action, Petitioner must file one of the following **on or before November 20, 2017**:

- (1) a status report that includes the case number for the habeas petition he filed in the California Supreme Court; or
- (2) a request for a 30-day extension of time and a sworn declaration (not to exceed 3 pages) presenting a plausible and coherent explanation, supported by competent evidence whenever possible, for Petitioner's repeated failure to timely comply with this Court's orders.

Due to Petitioner's repeated noncompliance with this Court's orders and the extraordinary length of the extension of time he received in August, no extension of time longer than 30 days will be granted.

If Petitioner no longer wishes to proceed with this case, he may file a document entitled "Notice of Dismissal" in which he requests the voluntary dismissal of this action with no further consequence.

Petitioner is expressly cautioned that his failure to timely respond to this order may result in the Court vacating the stay *nunc pro tunc* and recommending dismissal of the action based on Local Rule 41-1 and Rule 41 of the Federal Rules of Civil Procedure.

Initials of Preparer

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